Supreme Court, U.S.
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No.

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1997

In Re: DAVID GOLIA-PALADIN,

Petitioner,

Applicant to the 1996 Nevada Bar Examination

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEVADA

David Golia Paladin
Pro Se
P.O. Box 66
Mineola, New York
11501

February 13, 1998

12 pp

QUESTIONS PRESENTED

This case involves Equal Protection issues in Nevada bar admission proceedings, as well as underlying Due Process and Privileges and Immunities issues. Here however, notice and opportunity to be heard were not simply compromised, they were eliminated.

This is Petitioner's third application to this Court for relief from an increasingly serious pattern of discrimination resulting from the failure of the attorney admission and disciplinary process to protect an attorney's Fourteenth Amendment rights. The applications from New York, Nevada and North Carolina involve two different state courts and one federal court. In all cases, an attorney's rights to due process and equal protection were not protected by the regulations and statutes governing the discipline or admission of attorneys, by the administration and application of these regulations by the agencies empowered to apply these laws and regulations and were further violated by the court's failure to properly oversee the agencies' actions.

The first case, docket number 96-1414, certiorari denied, April 14, 1997, involved very specific equal protection and due process issues in a New York attorney disciplinary system that harbors four very different sets of rules depending on your physical location within the state. Here, in addition to the equal protection issues, notice, opportunity to be heard, and impartiality were severely compromised.

The second case, docket number 96-1008, certiorari denied February 18,1997, involved very specific equal protection and due process issues in bar admission proceedings in North Carolina. Again here, notice, fundamental fairness, and a meaningful opportunity to be heard were severely compromised.

Thus, in the present case before this Court several issues are raised by actions of Nevada authorities and subsequent treatment by their supervisors, the Supreme Court of Nevada. Bar

admission proceedings and procedures involving character have not been scrutinized by this Court in nearly three decades, nor has the Court examined the question of character itself. Times have changed, some licensing bureaucracies have gotten more entrenched and reactionary, practicing a form of diversity discrimination, while at the same time the economy and accompanying lifestyles have undergone massive change. Thus, the issues raised in this petition are of singular importance to professional licensing standards and procedures where numerous licensing agencies have lost sight of how their mandate originated in and must remain within the constitutional framework set forth by the founding fathers. Such wayward elements have become not just a hindrance to a borderless Internet world, but their arbitrary actions violate the most basic of principles found in the constitution to which we all must adhere. This erosion of rights set forth by the framers of the constitution must stop.

The salient issues that need to be addressed to bring this erosion of rights to a halt are as follows:

I. Did the Nevada Supreme Court improperly fail to review the merits of Petitioner's case in violation of Petitioner's Equal Protection rights under Amendment 14 of the United States Constitution?

II. Have bar admission and disciplinary proceedings become so unwieldy and unresponsive to today's societal needs as to harbor age and residency discrimination along with arbitrary biases and abuses of process–most frequently under the guise of the vagaries of moral fitness–that such use contravenes basic principles of Due Process, Equal Protection and Privileges and Immunities rights guaranteed to all citizens, including lawyers, under Amendment 14 of the United States Constitution?

TABLE OF CONTENTS

QUESTIONS PRESENTED
Page i
TABLE OF AUTHORITIES
Page iv
OPINIONS BELOW
Page 1
JURISDICTION
Page 1
CONSTITUTIONAL PROVISIONS AND RULES
Page 1
PRELIMINARY STATEMENT
Page 2
STATEMENT OF THE CASE
Page 4
REASONS FOR GRANTING THE WRIT
Page 6

I. The Nevada Supreme Court improperly failed to review the merits of Petitioner's case in violation of Petitioner's right to the equal protection of the law guaranteed by Amendment 14 of the United States Constitution.

II Bar admission and disciplinary proceedings, both in Nevada and elsewhere, have in their pursuit of perfection become harbors for age and residency discrimination along with arbitrary biases and abuses of process–most frequently under the guise of the vagaries of moral fitness–that such use contravenes basic principles of Due Process, Equal Protection, and Privileges and Immunities rights

guaranteed to all citizens, including lawyers, under Amendment 14 of the United States Constitution.

CONCLUSION

Page 17

APPENDIX

A. Order of Supreme Court of Nevada 11/21/97
B. Order of Supreme Court of Nevada 12/24/97
C. Petitioner's Appeal of 6/18/96, including exhibits and Nevada Supreme Court Order of 9/29/93 taking away all character and fitness powers and duties from Board of Bar Examiners
D. Supreme Court of Nevada Admissions Rule 51
E. Petitioner's 4/5/96 letter to Admissions Director
F. Supreme Court of Nevada Admissions Rule 56
G. Supreme Court of Nevada Admissions Rule 64
H. Supreme Court of Nevada Form for Notice of Negative Recommendation, and Notice of Time to Appeal--none of which was sent to Petitioner
I. Petitioner's 1/18/97 Request for Reconsideration
J. Petitioner's 12/2/97 letter to Admissions Director
K. Nevada Bar Chairman's 3/26/96 letter
L. Petitioner's 11/25/97 Submission to Nevada Bar

TABLE OF AUTHORITIES

CASES:

Slaughter-House Cases, 83 U.S. (16 Wall) 36 (1873)
Page 13
Schware v. Board of Bar Examiners of the State of New Mexico, 77 S.Ct. 752 (1957)
Page 12
Konigsberg v. State Bar of California, 77 S.Ct. 1374 (1957)

[*Konigsberg I*]
Page 12
Konigsberg v. State Bar of California, 81 S.Ct. 997 (1961)
[*Konigsberg II*]
Page 12
Hallinan v. Committee of Bar Examiners of the State Bar of California, 421 P2d 76 (1966)
Page 14
Spevack v. Klein, 87 S.Ct. 625 (1967)
Page 16
Supreme Court of New Hampshire v. Piper, 105 S.Ct. 1212 (1985)
Page 12, 15
Gentile v. State Bar of Nevada, 111 S.Ct. 2720 (1991)
Page 14

CONSTITUTIONAL PROVISIONS

United States Constitution: Amendment XIV, Section 1
Page 1
28 U.S.C. Section 1257(a)
Page 1

RULES AND REGULATIONS

Supreme Court of Nevada Rules on Admission, and on Character and Fitness

Admission Rule 51
Page 1
Admission Rule 64
Page 2
Character and Fitness
Page 2

OTHER AUTHORITIES

Calabresi, Guido, and Bobbitt, Philip, *Tragic Choices*, W.W.

Norton, (1978)
Page 9
Calabresi, Guido, *A Common Law for the Age of Statutes*, Harvard University Press (1982)
Page 9
Rhode, Deborah L., "Moral Character as a Professional Credential," 94 *Yale Law Journal* 491 (1985)
Page 10, 13

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEVADA

Petitioner David Golia-Paladin respectfully petitions for a writ of certiorari to review the judgment and opinion of the Supreme Court of Nevada.

OPINIONS BELOW

The opinion of the Supreme Court of Nevada is unpublished and filed under docket number 28734 and is reprinted as Appendix A. The first order of the Supreme Court of Nevada is filed under the same docket and is reprinted as Appendix B. The order of the Chairman of the Nevada Board of Bar Examiners is unpublished and reprinted in Appendix C.

JURISDICTION

The judgment of the Supreme Court of Nevada was entered November 21, 1997. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1257(a).

CONSTITUTIONAL PROVISIONS AND RULES

Amendment XIV, section I

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Rules of Admission, Supreme Court of Nevada

Rule 51:

[A]pplicant shall not have been refused admission...in any state...on the grounds of unfitness of character.

Rule 64:

Recommendation to supreme court for denial of admission for failure to meet requirement of Rule 51.

Nevada Supreme Court rule on Character and Fitness:

By order dated September 29, 1993, the Court created the Committee on Character and Fitness...and delegated to the Committee all powers and duties...previously delegated to the Board of Bar Examiners regarding character and fitness.

PRELIMINARY STATEMENT

This is the third separate but related petition for a writ of error from this Court from this same Petitioner. The first was to the U.S. Court of Appeals for the Second Circuit. The second was to the Supreme Court of North Carolina. The present petition is a writ of error to the Supreme Court of Nevada. The Petitioner is a member in good standing of the State Bar of New York and has remained so since his admission in 1978.

In New York in 1988 Petitioner was without notice issued a non disciplinary letter of caution. Some jurisdictions within New York provide for notice in their rules, while others in New York do not. When Petitioner questioned this procedure and the odd patchwork of attorney disciplinary rules that had developed in New York, an additional non disciplinary letter of caution was issued. The matter eventually was reviewed by the Second Circuit of the United States Court of Appeals which determined there was no property right at stake, thus Amendment 14 Due Process did not apply, and that there were no Amendment 14 Equal Protection issues. A writ to the United States Supreme Court, docket 96-1414, was denied April 14, 1997.

In 1991, Petitioner applied for admission to North Carolina by comity. The application was denied, with one of the reasons

being that Petitioner's update of the above civil rights suit during the admission hearing rather than before, was somehow considered as having willfully failed to provide to the Board material documents and thus failed to meet their moral fitness requirements. This was upheld by the North Carolina Supreme Court. Subsequently, a writ to the United States Supreme Court was filed in this case as docket 96-1008, and it was denied February 18, 1997.

In 1995 Petitioner obtained an application to take the Nevada Bar exam. Contained therein were conflicting rules. Rule 51(5), Appendix D, of the Supreme Court Rules of Nevada provides that a person rejected for bar admission by another state on moral fitness grounds could not be admitted in Nevada. At the same time however, the Supreme Court of Nevada also set forth therein its Policy on Character and Fitness, Appendix C for Applicants Seeking Admission to the State Bar of Nevada. It provides in part that their Bar Examiners no longer have any authority regarding character and fitness, and that a person rejected by another state on moral fitness grounds was entitled to have his or her case reviewed by the Character and Fitness Committee, Appendix C. On subsequent oral inquiry to the Nevada Bar staff, Petitioner was told that moral fitness rejection from another state was not a bar to admission in Nevada, and that Nevada made its own independent evaluation and findings, Appendices E and C. Subsequently Petitioner submitted his application and additional fee which then totaled $600.00.

Shortly thereafter, without explanation of the inconsistencies and without information on the review process, the Chairman of the Nevada Bar summarily rejected the application (appendix letter from Alling dated March 12, 1996, Appendix C. However, the correct process in Nevada appears to require that the board recommend acceptance or rejection to the Supreme Court of Nevada, Appendices F and G. The Court, in turn, then has its clerk provide notice to the applicant of the Supreme Court's decision as well as notice of the applicant's right to appeal any negative result, Appendix H.

Unfortunately, Mr. Alling initiated a summary dismissal of the Petitioner's application, apparently without following his own governing rules. Thus Petitioner never received notice from the Clerk of the Supreme Court of Nevada as to its rejection and specific notice of right to appeal, such as was provided all other applicants. In June Petitioner personally went to the Nevada Supreme Court and spoke with the law clerk of their Chief Justice. The clerk recommended filing an appeal for expedited review. The appeal was filed in the next few days. On Petitioner's subsequent appeal to the Supreme Court of Nevada, the Court did not address the substantive issues. Rather, the Court upheld the Chairman of the Board of Bar Examiners based upon a procedural defect, i.e. because Petitioner's appeal was not filed within 30 days of the chairman's rejection.

Petitioner requested reconsideration, Appendix I, on grounds that this violated Petitioner's right to Equal Protection of the law because the Chairman had acted without authority and the Petitioner, not having received notice of action or of right to appeal from the Nevada Supreme Court itself, was treated differently from all other rejected applicants. The Supreme Court of Nevada again rejected Petitioner's argument, stating that Petitioner could reappeal any future rejection by the Nevada Bar Examiners, Appendix A. Petitioner then wrote the Nevada Bar asking which of their conflicting rules were applicable on a reconsideration, Appendix J. Petitioner has not heard from them in the past two and a half months, leading Petitioner to believe that reconsideration by them of this matter would be an exercise in futility, and that the appropriate forum for review at this point is the United States Supreme Court.

STATEMENT OF THE CASE

Petitioner, David Golia-Paladin, an attorney in good standing in New York, applied to take the 1996 Nevada bar exam. Petitioner was summarily rejected by Mr. Alling, the chairman of the Nevada Bar examiners. The rules for admission did not appear

to grant the bar examiners this authority, Appendix G. The rules appeared only to give them authority to "recommend" rejection or admission to the Supreme Court of Nevada. Subsequent correspondence with Mr. Alling did nothing to clarify this matter. Further, Rule 51.5 appeared to be in direct conflict with the orders of the Nevada Supreme Court's 1993 decision to set up a Character and Fitness Committee and its stated purposes–among which were exclusive control of character and firtness decisions, and another of which was to review applicants who had been rejected by other jurisdictions on grounds of lack of moral fitness, Appendix C.

Three months later Petitioner personally went to the Supreme Court of Nevada and asked one of the Justice's law clerks what could be done to correct matters. He recommended Petitioner file an appeal. If the Nevada Supreme Court had wished to clarify this matter at that time, they could have, but instead they relied on a technicality in six months later rejecting the appeal by stating that it was not filed within the 30 day requirement of their rules.

Petitioner then asked the Nevada Supreme Court to reconsider, based on the fact that Mr. Alling failed to notify the clerk of the Nevada Supreme Court, and the clerk in turn failed to notify Petitioner of the rejection and right to appeal within 30 days–as the clerk does in all cases of rejection. Ten more months later, this request for reconsideration was also rejected by the Nevada Supreme Court. It remains Petitioner's position that this failure on the part of the clerk of the Supreme Court of Nevada to provide Petitioner with the same notice as she provided all other rejections was a violation of Petitioner's right to the Equal Protection of the laws. Further, it is Petitioner's position that the actions of the Nevada authorities and the vague and conflicting rules and inconsistent standards they relied on abridged Petitioner's 14th Amendment national citizenship rights to Privileges and Immunities and violated his rights to Due Process, Equal Protection, and fundamental fairness of law.

REASONS FOR GRANTING THE WRIT

I. Did the Nevada Supreme Court improperly fail to review the merits of Petitioner's case in violation of Petitioner's Equal Protection rights under Amendment 14 of the United States Constitution?

Equal protection of the law means that governments are required to treat similarly situated persons equally in granting benefits or imposing burdens, and that anything less, either on its face or as administered, constitutes an unconstitutional purposeful discrimination by the governmental entity.

In the case at bar, due process, equal protection and privilege and immunity issues were raised in the initial appeal, Appendix C. However, in November, 1996 a $25.00 refund of the $600.00 in fees was sent to Petitioner with no accompanying explanation. Petitioner returned the check to the Court with a query as to the status of Petitioner's case. In December 1996, and as had the Chairman of the Nevada Board of Bar Examiners summarily ruled earlier, the Supreme Court of Nevada ruled that it was declining to rule on the merits. The Court stated that Petitioner had failed to offer any reason for failing to adhere to their 30 day appeal policy. A request for reconsideration was filed in January, 1997 in which Petitioner pointed out that none of the Board's normal procedures appeared to have been followed, the Board utterly failed to "recommend" anything to their Supreme Court as called for in the rules promulgated by the Nevada Supreme Court, and there had never been any notice from the Clerk of the Supreme Court of Nevada to Petitioner as to the negative finding and as to Petitioner's right to appeal, as was done in all other negative determinations.

The dimensions of the issue here are straightforward. Appendix H shows what is normally sent out by the Nevada Supreme Court Clerk to unsuccessful examinees after the board has recommended rejection. If they had followed their own procedures, the Supreme Court of Nevada would have to have

ruled on the merits of the Petitioner's claims, Appendix C.

This amounts to purposeful discrimination against the Petitioner by Nevada authorities. The actions of the chairman of the board appeared to be completely outside the scope of his own authority. Further, he seemed not to care at all about the nature of his summary dismissal, Appendix K. There is nothing in the Nevada Rules that authorizes him to summarily reject any applicant, yet the Supreme Court of Nevada chose not to disturb his decision by referring to a highly questionable and clearly constitutionally defective North Carolina determination, Appendices A, C and L, that was, indeed, previously brought to the attention of the United States Supreme Court as docket 96-1008.

Interestingly, when the equal protection issue was raised on Petitioner's request to reconsider their earlier decision, the Supreme Court of Nevada indicated that Petitioner could appeal again to them in the future any negative determinations by their board. However, further inquiry to the Nevada Board of Bar Examiners, Appendix J, resulted in Petitioner still awaiting a response as of the date of this writing. It would appear to be their intention to ignore Petitioner's correspondence and inquiry, and in addition they appear intent to not address the inconsistencies and Constitutional violations engendered by their actions. Thus, Petitioner is once again asking the United States Supreme Court to intervene to correct the defamatory and unconstitutionally biased positions that Nevada authorities have taken in this matter.

II. Have bar admission and disciplinary proceedings, generally and in Nevada specifically, become so unwieldy and unresponsive to today's societal needs as to harbor age and residency discriminations along with arbitrary biases and abuses of process–most frequently under the guise of the vagaries of moral fitness–that such use contravenes basic principles of Due Process, Equal Protection and Privileges and Immunities rights

guaranteed to all citizens, including lawyers, under Amendment 14 of he United States Constitution?

The Petitioner's position here is that the United States Supreme Court has an interest in bringing bar disciplinary and admissions proceedings back in time to constitutional basics, and at the same time forward toward a uniform and more modern standard of fitness–which may indeed involve discarding a hoary and more and more abused standard of "moral fitness" that is totally out of step with modern realities.

This case is unique in that it is built on a steadily increasing abuse of process and little else of material substance.

These problems started with a non disciplinary letter of caution issued without notice in New York, which turned into a lack of moral fitness in North Carolina, which turned into summary rejection in Nevada–and to date ten years of litigation.

How have we come to the point of bar discipline and admissions being so cavalier about the violation of basic constitutional rights? It is as if the interests of these authorities, when focused on an individual applicant, have become so narrowed as to preclude consideration of the constitutional rights and protections which of necessity, must be afforded to the applicant under scrutiny.

By their very nature, these admission committees are required to fill various and conflicting roles in the admissions process. They are investigator, prosecutor, judge and jury. Given these conflicts, it is imperative and incumbent on them to vigorously uphold and protect the constitutional rights of those they are considering for admission. It is also almost impossible for them to do that under these conflicting circumstances. As a result, abuses of discretion and of individuals' constitutional rights are rampant.

The most unfortunate thing in this case is that these rights are

being destroyed by lawyers.

It is therefore imperative that after an absence of more than thirty years the United States Supreme Court reexamine the fitness standards and procedures for bar admission and set specific constitutional guidelines as to what character and fitness elements are relevant to bar admission and what procedural requirements must be followed to guarantee basic constitutional rights.

The issue is how we can protect our basic societal and legal values. It is necessary that the law have the ability to change with changes in society and at the same time remain true to its constitutional underpinnings. Guido Calabresi said as much at page 197 in *Tragic Choices*, Calabresi and Bobbitt (1978): "Values, even fundamental values, evolve and change. What becomes stable, what remains stable, depends on the evolution of values in society."

Professor, now Judge, Calabresi, went on to say at page 164 in his 1982 book, *A Common Law for the Age of Statutes*, the following:

> "What then is the common law function to be exercised by courts today? It is no more and no less than the critical task of deciding when a retentionist or a revisionist bias is appropriately applied to an existing statutory or common law rule. It is the judgmental function (which cannot successfully be accomplished by sunset laws or automatic updatings) of deciding when a rule has come to be sufficiently out of phase with the whole legal framework so that, whatever its age, it can only stand if a current majoritarian or representative body reaffirms it. It is to be the allocator of that burden of inertia which our system of separation of powers and checks and balance mandates. It is to assign the task of overcoming inertia to that interest, whose desires do not conform with the fabric of the law, and hence whose

> wishes can only be recognized if current and clear majoritarian support exists for them. It is this task (so like that exercised by courts in updating the common law) which desperately needs doing in a checked and balanced statutory world like ours, and it can be done by courts using traditional methods and modes of reasoning."

In 1985 Deborah Rhode wrote a 56 page article on the subject of character and fitness in its relation to bar admission and discipline. The article was entitled, "Moral Character as a Professional Credential," 94 *Yale Law Journal* Number 3, 491 et seq. (1985). In it she pointed out the numerous bizarre perspectives of many of the admissions committee members nationwide, along with the highly questioned results of their negative determinations. In her article she stressed the lack of qualification of the reviewers, their large egos, the high cost in time and money, the inconsistencies of standards, and the almost uniform inconsistency of results. Indeed, how else can a person be found morally lacking in one state, and acceptable in another?

In her concluding remarks at page 591 Ms. Rhode states:

> "To some extent, the evolution of current oversight structures parallels the growth of societies for the suppression of vice. Beginning with "the best intentions," such organizations almost inevitably degenerate, often into "receptacle[s] for...tittle-tattle [and] impertinence," and ultimately into bureaucracies; the administrators become tradesmen, and moral sentiments are "swallowed up in the pursuit of a daily occupation...." [Footnote omitted] So too, as concepts of professional character become bureaucratized, they readily become devalued. Administrators' ad hoc denunciations are unlikely to suppress vice or encourage virtue. As currently implemented, the moral fitness requirement both subverts and trivializes the

> professional ideals it purports to sustain. In seeking to express our aspirations, such rituals succeed only in exposing our pretenses. While hypocrisy is often the bow vice pays to virtue, better forms of tribute may be available."

Again, it is this Petitioner's position that this issue is ripe for review by this Court.

A decade of official slander is enough. Character screening processes of dubious values that can devour years of reviews, hearings, appeals, and decisions, followed by repetitions of the entire process with no meaningful end in sight, is an extreme enough process in itself to run afoul of due process. This is exactly what the Supreme Court of Nevada has proposed in the case at hand. In effect this makes the process so burdensome to an applicant as to wear the person out. It is a warping of constitutional values by endless procedural moves designed ultimately to deny admission while presenting a sham of constitutional propriety.

Indeed, the committee members are, in essence, agents of the Supreme Courts of their respective states, and because they are generally volunteers in what is often considered a hapless job, they are rarely overruled. What is generally overlooked is that these committees are heavily influenced by their permanently employed staffs, and too often the committees are little more than a "rubber stamp" for the biases of permanent administrative staff that generally have no requirement of judicial neutrality and rarely answer to anyone.

Because of this situation, the staff and committee know that in effect, the chances of review by the United States Supreme Court are about one in one hundred writs generally, and that chances are further reduced exponentially because they know that few applicants with a legitimate complaint are stubborn enough to outlast the appeal process. Undoubtedly there have been hundreds of writ applications to the United States Supreme

Court on bar admissions character issues since this Court last touched on them in *Schware v. Board of Bar Examiners of the State of New Mexico*, 77 S.Ct. 752 (1957) and in *Konigsberg I* and *II*, (*Konigsberg v. State Bar of California*, 77 S.Ct. 1374 (1957), and *Konigsberg v. State Bar of California*, 81 S.Ct. 997 (1961)). And the Petitioner's recent New York and North Carolina writs are a testament to that.

The last meaningful United States Supreme Court review of these issues has been over thirty years ago, since which time the growth of character abuse by many of these committees and staff has continued unabated.

As to standard of review, although lawyers have always fallen into a "suspect classification" by general consensus, even if the minimal scrutiny standard of review is used, there is no "rational basis" or legitimate governmental interest in such abuses of process except to contravene constitutional principles in spirit, as Ms. Rhode stated above, while appearing outwardly to uphold them for a seemingly rational purpose. And as Justice Powell stated for the majority in *Supreme Court of New Hampshire v. Piper*, 105 S.Ct. 1212 (1985) at page 1277: "...the opportunity to practice law should be considered a 'fundamental right.'" [Emphasis added]

This Court could not have been clearer, that there must be a rational connection between the character of bar candidates and his or her fitness to practice, in its ruling in *Schware v. Board of Bar Examiners of the State of New Mexico*, 77 S.Ct. 752 (1957) in which Mr. Justice Black stated at page 756:

> "A State may not exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment...A state may require high standards of qualification such as good moral character or proficiency in its law before it admits an applicant to the bar, but any qualification

must have a rational connection with the applicant's fitness or capacity to practice law." [Emphasis added]

Finally, the Petitioner has raised the issue of Privileges and Immunities. For years states have been allowed to discriminate against non residents under Article IV when there is a substantial relation to an important governmental interest–which among other things allowed states to establish their own monopolistic regulatory agencies for the professions. And, since the *Slaughter-House Cases*, 83 U.S. (16 Wall) 36 (1873), Amendment XIV Privileges and Immunities have been limited to national rights of citizens–interstate travel, voting and suit for constitutional and other review in the federal courts.

It is Petitioner's position that inevitably, two standards are de facto in use in assessing bar applicants. One factor is that applicants fresh out of law school rarely receive the scrutiny that an older practitioner receives–solely because of the obvious fact that the person in practice for twenty years has a record to look at. What this says is that a person with some "nonconformist" diversity and experience, whether obtained before or after law school, can experience very real discrimination at the hands of bar admissions personnel who by definition are conformists. The other factor is that most people in that older age category are typically looking to move to another state, typically a state with a warmer climate and growing population.

The examining authorities, per Ms. Rhode, have had little predictive success in picking out the lawyers who later become substance abusers and embezzlers. Indeed, she states at page 559 of her article, "Moral Character as a Professional Credential," 94 *Yale Law Journal* 491 (1985): "Even trained psychiatrists, psychologists, and mental health workers have been notably unsuccessful in projecting future deviance, dishonesty, or other misconduct on the basis of similar prior acts." [Footnote omitted] She goes on to say on page 560: "Despite most bar examiner's confidence in their intuitive capabilities, there is reason to doubt they will achieve

substantially greater accuracy than trained clinicians in predicting future misconduct or incapacity." It is hard therefore, not to surmise the existence in these admission systems of substantive age, experience, and residency discrimination.

It should not be forgotten that bar admission agencies generally have unlimited resources and official immunity. It also should be reiterated that they have a very real function as "conformists." So by definition, an applicant with some kind of history is going to raise their attention to see whether such "history" conforms to what they may think it should be. And this is typically where they lose sight of Due Process objectivity.

When bar examiners see an applicant, typically older, but not always, who has had an atypical career or who has not been afraid to stand up to some unreasonable form of authority and assert his or her rights, they can regress into very subjective positions from which they will not budge. The bar is then frequently raised to redefine character as being beyond any reproach. Indeed, the authorities then often find themselves in the position of trying to support some heavy handed perspective on some unfortunate applicant's character with multiple straw-like arguments of little substance such as found in *Schware* (supra) or in *Hallinan v. Committee of Bar Examiners of the State Bar of California*, 421 P.2d 76 (1966 California Supreme Court).

It is safe to say that Messers Schware and Konigsberg were nonconformists who were determined to assert and willing to fight for many of the same rights for which the founding fathers fought. And the same can certainly be said for Terence Hallinan, the current District Attorney of San Francisco.

And concerning the immediate case at hand, it bears mentioning that the State Bar of Nevada and the issue of vagueness in a Rule of the Supreme Court of Nevada are not unfamiliar to the United States Supreme Court. In *Gentile v. State Bar of Nevada*, 111 S.Ct. 2720 (1991), Justice Kennedy stated at pages 2731 and

2732 that:

> "...the Rule [177] is void for vagueness...the Rule fails to provide '"fair notice to those to whom [it] is directed."' The fact that [petitioner] was found in violation of the Rules after studying them and making a conscious effort at compliance shows that Rule 177 creates a trap for the wary as well as the unwary...The question is not whether discriminatory enforcement occurred here, and we assume it did not, but whether the Rule is so imprecise that discriminatory enforcement is a real possibility. The inquiry is of particular relevance when one of the classes most affected by the regulation is the criminal defense bar, which has the professional mission to challenge actions of the State."

It is this Petitioner's position that the same questions of confusion can arise with the vague and conflicting Nevada rules regarding character, authority to make final determinations, and notice.

This Petitioner proposes that it is time that the Article IV "fundamental right" reasoning of *Piper v New Hampshire* (supra) be expanded to the extent that today's mobile society of national citizenry requires that Amendment 14 Privileges and Immunities now include the specific extension of meaningful and uniform due process and equal protection to all proceedings of all state agencies regulating the professions and admission to such professions of national citizens, and that the admission requirement of good moral character be uniformly defined and applied, and treated equally for both admission and disciplinary purposes, or struck down due to vagueness and inconsistent application.

It remains Petitioner's position that North Carolina perpetrated intentional Amendment 14 violations, Appendix C, that, when combined with Petitioner's then counsel's incompetence, Appendix L, completely precluded a defense to their without

substance and unsupported assertions.

How can a person be in good standing in one state and refused admission on grounds of lack of character in another? How can a third state summarily grant full faith and credit to one but not the other?

How can a state with legal gambling and prostitution accept, without any inquiry and in a manner seemingly in contradiction with their own rules, a questionable character judgement from a state in which Petitioner has never practiced, but at the same time they ignore his twenty years of good standing and a career of helping indigent defendants in another?

They likely can do this when "character" becomes whatever they want it to be whenever they want it to be, which in essence means that with regard to rights under the Fourteenth Amendment they "don't care," as Mr. Alling, the Chairman of the Board of the Nevada Bar Examiners, stated in his March 26, 1996 letter, Appendix K.

Indeed, it seems appropriate to mention yet again, that Mr. Alling apparently did not care that by any logical reading of the order of the Nevada Supreme Court dated September 29, 1993, (Appendix C), he had no authority to do what he did. And, too, it appears that this is because Nevada rules and policies are so confusing, so much so, that even their officials lack consistency in their interpretation and application.

As Justice Douglas stated in his opinion in the civil disbarment case of *Spevack v. Klein*, 87 S.Ct. 625 (1967) at page 627:

> "We conclude...that the Self-Incrimination Clause of the Fifth Amendment has been absorbed in the Fourteenth, that it extends its protection to lawyers as well as to other individuals, and that it should not be watered down by imposing the dishonor of disbarment and the deprivation of a livelihood as a price for asserting it."

Justice Douglas went on to state at page 628 that:

> "We find no room in the privilege against self incrimination for classifications of people so as to deny it to some and extend it to others. Lawyers are not excepted from the words 'No person***shall be compelled in any criminal case to be a witness against himself'; and we can imply no exception. Like the school teacher in Slochower v. Board of Higher Education of the City of New York, 350 U.S. 551, 76 S.Ct. 637, 100 L.Ed. 692, and the policeman in Garrity v. State of New Jersey, 385 U.S.493, 87 S.Ct. 616, 17 L.Ed.2d 562, *LAWYERS ALSO ENJOY FIRST CLASS CITIZENSHIP*." [emphasis added]

CONCLUSIONS

I. The Supreme Court of Nevada erred in denial of Petitioner's right to Equal Protection of the law by refusing to consider the merits of Petitioner's case.

II. The entire bar admission and disciplinary system can and does lose sight of its mandates and purposes once it has singled out an individual. From that point on, that individual's Fourteenth Amendment constitutional rights are in jeopardy. The facts of the case at bar demonstrate that admission bureaucracies have not been given sufficient constitutional guidance by this Court as to the limits and obligations engendered by some admission systems' conflicting roles and vague procedures and practices. As a result, the individuals who have been singled out–and in this particular case the Petitioner, who is not from Nevada but who does have twenty years practice experience–are not treated in the same manner as a person without a record of experience, nor are they afforded the same constitutional rights as an ordinary litigant.

Respectfully submitted,

David Golia-Paladin, Esq.
Pro Se
P.O. Box 66
Mineola, New York 11501
516 742 4699

February 13, 1998

APPENDIX A
November 21, 1997 Order of Supreme Court of Nevada Denying Rehearing with Petitioner's Supplemental Affirmation of August 25, 1997 Attached.

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: ADMISSION OF DAVID No. 28734
GOLIA-PALADIN TO PRACTICE
LAW IN NEVADA.
FILED NOV 21 1997
JANETTE M. Bloom
clerk of supreme court

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.[1]

ss/ Shearing/Springer/Rose/Young/Maupin

CC: Ronald D. Alling, Chairman,
Board of Bar Examiners
Rob W. Bare, Bar Counsel
Deena Trueblood, Admissions Director
Wayne Blevins, Executive Director
David Golia-Paladin

[1]We have received and considered petitioner's proper person documents. We elect to treat petitioner's motion for reconsideration as a petition for rehearing. This petition for rehearing is denied without prejudice to petitioner's right to appeal from any future denial of his application for admission to the Nevada State Bar.

1

1

SUPREME COURT OF THE STATE OF NEVADA

---x

IN THE MATTER OF DAVID GOLIA-PALADIN, Applicant for the July, 1996 Bar Examination,

Supplemental Exhibit
-against- Submission Affirmation
Docket # 28734

BOARD OF BAR EXAMINERS, STATE BAR OF NEVADA,

Ronald Alling, Chairman; Deena Trueblood, Admissions Director.

----------x

DAVID GOLIA PALADIN, an attorney in good standing and duly licensed to practice law in the Courts of the State of New York, hereby affirms under penalty of perjury the following:

1. On August 6, 1997 Petitioner visited the Clerk's Office of the Supreme Court of Nevada to determine the status of the above case. Petitioner was informed the matter was still pending and that a supplementary exhibit could still be submitted.

2. Enclosed please find a copy of Petitioner's writ filed with the United States Supreme Court, Docket #96-1008, asking that a writ be granted to review the North Carolina decision denying admission. The Court eventually declined to grant the writ.

3. The issues raised in the writ are self explanatory.

4. Concerning the writ, it is Petitioner's position that the North Carolina decision was rendered in complete disregard to Petitioner's United States Constitution Amendment 14 due process and equal protection rights. North Carolina appears to

be a state in which a person's rights before an administrative body are so narrowly construed as to allow such administrative bodies to impose a predetermined position without informing an applicant of specific concerns. Some in the past have referred to the actions of such righteous vigilance as "lynchings." Not knowing their concerns until after they reached their "conclusions" also makes it exceedingly difficult to preserve that part of the record that was never allowed to be made. Indeed, this was a source of contention with counsel at the time who in spite of repeated requests refused to place Fourteenth Amendment violations at the heart of his case until confronted with the need for a writ to the U.S. Supreme Court. There was not one issue raised in the North Carolina "conclusions" that was supported by substantial evidence or that could not be fully and satisfactorily responded to if given proper notice or if a person were willing to subject themselves to another multi year reapplication process. Thus Petitioner's position remains that the North Carolina administrative agency abused its discretion and its "wide freedom to gauge" by grossly violating Petitioner's rights guaranteed under the Fourteenth Amendment.

5, It is Petitioner's further position with regard to the writ that the following should also be kept in mind: This is the same state whose bar membership played principal roles in spearheading the tobacco industry defense of the past several decades-an industry which now admits to the deaths of hundreds of thousands of people. It would appear now as though official bodies of the state have allowed and encouraged a cancerous fraud on the public. This is the same state whose lawyers and officials are now trying to say that a person does not meet their moral fitness standards when he stands up and says his civil fights have been violated by an illegal search of his house or by an improper sanction. They were given everything they asked for, but it made no difference. What is truly material here to their position? Tenacity? Bar exams? Body counts? Winning at whatever cost? Was there truly any rational connection between their decision to deny admission to a person who has made a career

of helping poor people, and the welfare of the public of their state? In the end, the only way they could reach their conclusions was through questionable materiality and a denial of due process. Decisions of sister states are ordinarily due considerable deference, however in this instance their decision in Petitioner's case does not deserve further validation by This or any other Court.

WHEREFORE, with all due respect it is requested that this AFFIRMATION and the EXHIBIT attached be duly considered and the within motion for immediate relief be granted in all respects,

Dated: Fairbanks, Alaska
August 25, 1997

DAVID GOLIA PALADIN
Attorney at Law
P.O. Box 66
Mineola, NewYork 11501
516 742 4699

APPENDIX B

December 24, 1996 Order of Supreme Court of Nevada Denying Petition

THE SUPREME COURT OF THE STATE OF NEVADA

RE:ADMISSION OF DAVID GOLIA-PALADIN

No. 28734
TO PRACTICE LAW IN NEVADA.

Filed December 24, 1996

ORDER DENYING PETITION

Petitioner David Golia-Paladin seeks this court's review of a decision of the Nevada Board of Bar Examiners rejecting his libation to sit for the 1996 Nevada State Bar Examination.

Petitioner filed a timely application to sit for the 1996 Nevada State Bar Examination. His application disclosed that, in 1993, the North Carolina Board of Law Examiners denied his application for admission to the North Carolina Bar on character and fitness grounds. The Supreme Court of North Carolina thereafter affirmed the North Carolina board's decision. Matter of Golia-Paladin, 472 S.E.2d 878 (N.C. 1996).

Petitioner contends that. on January 22. 1996. he contacted the State Bar of Nevada Admissions Office to inquire whether SCR 51(5) would operate as an absolute preclusion of his admission to practice law in this state. SCR 51(5) provides in relevant part that an applicant to sit for the Nevada Bar examination shall "[n]ot have been refused admission to practice law . . .in any state . . . of the United States on the ground of unfitness of character."

According to petitioner, he was informed that the Nevada board would make an independent judgment respecting his moral character and fitness and that he should submit his application. In February 1996, petitioner submitted his application, along with the appropriate admission fee. On March 12, 1996, the Chairman of Board of Bar Examiners informed petitioner by letter that his application had been summarily rejected. The letter stated: "the Board of Bar Examiners does not have the authority to conduct an

independent investigation with respect to the circumstances surrounding your denial of admission in North Carolina." On June 19, 1996, petitioner filed the instant petition seeking this court's expedited review of the Board's decision and permission to sit for the 1996 Nevada Bar Exam.

SCR 64 provides that an applicant who is denied admission for failure to meet the requirements of SCR 51(5) may file a verified petition for review with this court within thirty days of receiving notice of such denial. See SCR 64. Petitioner acknowledges that he received actual notice of the Board's decision on March 12, 1996. Petitioner, however, did not file the instant petition in this court until June 19, 1996, well beyond the thirty-day filing period prescribed by SCR 64. Petitioner has made no attempt to explain or justify the untimely filing of this petition. Under these circumstances, this court is not inclined to disturb the board's summary rejection of petitioner's application. Accordingly, we deny this petition.

It is so ORDERED.
s/Steffen
s/Young
s/Springer
s/Shearing
s/Rose

cc: Ronald D. Alling, Chairman.
Board of Bar Examiners
C.A. Olendorff, Admissions Director
Wayne Blevins, Executive Director
David Golia-Paladin

APPENDIX C

Petitioner's June 18, 1996 Appeal of Nevada Bar Chairman's Summary Rejection and Exhibits – Exhibit A – Nevada Supreme Court Order of September 29, 1993 taking away all character and fitness powers and duties from Board of Bar Examiners.

SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DAVID GOLIA-PALADIN, Applicant for the July, 1996 Bar Examination,

-against- Affirmation

BOARD OF BAR EXAMINERS, STATE BAR OF NEVADA, Ronald Alling, Chairman; Deena Trueblood, Admissions Director.

DAVID GOLIA PALADIN, an attorney in good standing and duly licensed to practice law in the Courts of the State of New York, hereby affirms under penalty of perjury the following:

1. I am an applicant for the July, 1996 Nevada Bar Examination to be held in Las Vegas, Nevada, and as such am fully familiar with the relevant facts and most current circumstances of the within matter.

2. On January 22, 1996 I spoke with Sheila Robertson of the State Bar of Nevada Admissions office in Las Vegas concerning, among other things, your review policy where I as a prospective applicant was previously denied admission in another state for lack of moral fitness, and whether your Rule 51(5) was an absolute preclusion. I did not specify that the state was North Carolina. She told me then that the Examiners make an independent judgement as to moral fitness and that I should submit my application.

3. In the POLICY ON CHARACTER AND FITNESS FOR APPLICANTS SEEKING ADMISSION To The STATE BAR OF NEVADA, sent to me as part of my application package, at paragraph 5, it clearly states the following: "Any of the following will be considered by the Character and Fitness Committee to be a basis for further inquiry: *denial of

admission to, or suspension from, the bar in another jurisdiction on character and fitness grounds... " (exhibit A)

4. Based on the above representations, a timely application and appropriate fee were submitted in February, 1996.

5. The National Conference of Bar Examiners' Multistate Professional Responsibility Examination test was taken by me on 3/8/96. I received a passing score of a 91. (exhibit B)

6. On March 12, 1996, I received a summary rejection of my application for admission to the State Bar of Nevada, because, "the Board of Bar Examiners does not have the authority to conduct an independent investigation with respect to the circumstances surrounding your denial of admission in North Carolina. (exhibit C)

7. There appears to be a clear conflict between the policy of the Supreme Court of Nevada and the State Bar of Nevada.

8. On April 10, 1996, Deena Trueblood wrote to deny certain of the representations of Ms. Robertson referred to in paragraph 2 above. (exhibit D)

9. In January, 1993, the North Carolina Board of Law Examiners made findings that I did not meet their moral fitness standards for comity admission. I believe the North Carolina Examiners' findings to be wholly without merit, wholly without any supportive evidence, and of questionable motive. (exhibit E)

10. In February, 1993, California subsequently ruled on the same facts and disclosure that I met California's moral fitness standards. (exhibit F)

11. On May 3, 1996, notice of appeal was filed with the United States Court of Appeals for the Second Circuit concerning whether a non disciplinary letter of a caution issued to me by a New York grievance committee without notice in 1988 was violative of due process and equal protection.

12. On May 15, 1996 the North Carolina matter was argued before the North Carolina Supreme Court, and a decision is pending.

13. On May 24, 1996 I was informed I had achieved a passing score on the California bar examination.

14. On June 17, 1996 I was able to consult in person at the Office of the Clerk of the Supreme Court of Nevada in Carson City as to an appropriate remedy. 15. Since my admission to practice in New York in November of 1978, I have always been in good standing. (exhibits G & H)

16. The above facts represent accurately the status of events and most current update of my Nevada application to support the within motion.

CONCLUSIONS:

1. There appears to be a conflict regarding moral fitness policies between the Supreme Court of Nevada and the State Bar of Nevada.

2. There is no reason to give unquestioned credence to the decision of the North Carolina Law Examiners, whose decision may yet be reversed.

3. California subsequently gave no credence to the issues on which the North Carolina Law Examiners based their decision.

4. Moral fitness determination is easily separable from the examination aspect of the admissions process. Further, the Nevada Bar Examiners have been paid a fee to conduct a moral fitness examination, and through this process they should be able to verify all that has been set forth in these moving papers.

5. Denial of admission to take the examination would result in an undue hardship of delay, as well as additional punishment for applicant's attempt to be scrupulously candid with both the Nevada Bar and Supreme Court of Nevada, and finally, the conflict between the Nevada Bar's written policy and the Rules of the Supreme Court of Nevada would remain unresolved.

RELIEF REQUESTED:

1. Admission to sit for the July, 1996 Nevada Bar Examination administered in Las Vegas.

2. Costs, and any other relief this Honorable Court deems just and appropriate.

WHEREFORE, it is respectfully requested that the within motion for immediate relief be granted in all respects.

Dated: Santa Clara, California
June 18, 1996 DAVID GOLIA PALADIN
Attorney at Law
P.O. Box 66
225 Horton Highway
Mineola, New York 11501

POLICY ON CHARACTER AND FITNESS FOR APPLICANTS SEEKING ADMISSION
To The
STATE BAR OF NEVADA

1. WHO GOVERNS ADMISSION TO THE STATE BAR OF NEVADA?

The Constitution and laws of the State of Nevada grant jurisdiction to the Supreme Court (Court) of Nevada to control admission to the bar. The Court, by rule, created the Board of Governors of the State Bar. With the approval of the Court, the Board of Governors has the power to fix and determine the qualifications for admission to practice law in the State. The Board of Bar Examiners, also created by rule, is responsible to the Board of Governors and governs the administration of the bar examination. **By order dated September 29, 1993, the Court created the Committee on Character and Fitness (the Committee), and delegated to the Committee all powers and duties previously delegated to the Board of Governors and the Board of Bar Examiners regarding character and fitness.** The Supreme Court charged the Committee with the responsibility to conduct investigations and hearings, and to submit reports and recommendations to the Court respecting the ethical, moral and psychological fitness of applicants for admission to practice law in the State.

2. WHO IS ON THE CHARACTER AND FITNESS COMMITTEE?

The Committee is composed of seven active attorneys of the State Bar of Nevada, who come from all areas of the State and who represent different types and forms of law practice. Four of the members are appointed by the Court and three are appointed by the Board of Governors. The Court appoints one of the members to chair the Committee. The members are appointed for a term of three years, and their terms are staggered; no attorney is permitted to serve on the Committee more than a lifetime total of nine years. A majority of the Committee constitutes a quorum,

3. WHO WILL BE RECOMMENDED FOR ADMISSION TO THE BAR?

The Board of Bar Examiners and the Character and Fitness Committee will recommend the admission of those candidates who meet the character and fitness standards and pass the Bar examination including the separate Multistate Professional Responsibility Exam (MPRE). The Bar examination is a written test composed of the Multistate Bar Examination (200 multiple-choice questions), and the Nevada Essay Examination (eight essay questions). The test is given over a period of three days. The Multistate Bar Examination is graded by the National Conference of Bar Examiners; all essay questions are graded by members of the Board of Bar Examiners.

4. WHAT DOES THE GOOD CHARACTER AND FITNESS STANDARD REQUIRE?

The character and fitness standard requires that an applicant to the State Bar of Nevada be one whose record of conduct justifies the trust of clients, adversaries, courts, and others. The hallmark of such a person is honesty, especially in connection with the application for admission to the Bar. Persons

EXHIBIT "A"

with a record showing a deficiency in honesty, trustworthiness, diligence or reliability might not be recommended for admission.

5. WHAT KINDS OF CONDUCT MIGHT SHOW A DEFICIENCY IN THE NECESSARY QUALITIES OF

HONESTY, TRUSTWORTHINESS, DILIGENCE OR RELIABILITY?

Any of the following will be considered by the Character and Fitness Committee to be a basis for further inquiry

unlawful conduct academic Misconduct making false statements, including omissions misconduct in employment acts involving dishonesty, fraud, deceit or misrepresentation

* abuse of legal process

* neglect of financial responsibilities

* neglect of professional obligations

* violation of an order of a court

* evidence of mental or emotional instability

*evidence of drug or alcohol dependency

***denial of admission to, or suspension from, the bar in another jurisdiction on character and fitness grounds**

*disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction.

The application for admission inquires into each of the above, as well as all other matters concerning character and fitness.

6. WHEN NECESSARY, HOW DOES THE CHARACTER CONDUCT FURTHER INQUIRY?

The applicant may be asked to provide facts and\or explanations, in adc Bar application. In order to verify the accuracy of the information prov obtain additional information, the Committee may also contact the applicant's employers, colleges and law schools, courts, medical prov agencies, and the military, if the applicant has served in the Armed I employ its own 'investigator and may use the investigative services of the Examiners. In accordance with Supreme Court Rule 57, the Committee has the authority to conduct a hearing on the qualifications of the applicant for admission and may take and hear relevant evidence,

administer oaths and affirmations, require substance or psychological evaluations, and compel by subpoena the attendance of witnesses and the production of books, papers, and documents. The applicant has the right to be present at the hearing and to be represented by counsel of choice. The Committee is required to assess and require advance payment of further fees and costs against an applicant that, in the opinion of the Committee, are reasonably necessary to conduct an investigation

EXHIBIT "A"

NATIONAL CONFERENCE OF BAR EXAMINERS

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION

EXAMINEE'S REPORT OF SCORES

Please review carefully all information printed below. If any data are incorrect or incomplete, contact the board of bar examiners in the jurisdiction to which your scores were reported.

RAW	SCALED	TEST	SOCIAL SECURITY
33	91	3/8/96	

GOLIA PALADIN, DAVID
PO BOX 66
MINEOLA, NY 11501

Your scores (shown above) were reported to the following jurisdiction as you requested in Block J of your answer sheet:

NEVADA

This jurisdiction requires a minimum passing scaled score of: 85
Multistate Professional Responsibility Examination
Records Department
P.O. Box 451, Iowa City, Iowa 52243
Telephone: (319) 337-1304

EXHIBIT "B"

STATE BAR OF NEVADA

REPLY TO RENO / LAS VEGAS

March 12, 1996

DAVID GOLIA-PALADIN
P.O. Box 66
Mineola, NY 11502

Re: 1996 APPLICATION FOR ADMISSION TO THE STATE BAR OF NEVADA

Dear Mr. Golia-Paladin:

Your 1996 application for admission to the State Bar of Nevada has been referred to me for review. In response to question 18(a) of your application, you state that you have been denied admission to the North Carolina bar on the grounds of lack of moral fitness. You further requested that the Nevada Board of Bar Examiners investigate the grounds upon which you were denied admission in North Carolina and make an independent determination as to your moral character and fitness to practice law in the State of Nevada.

Nevada Supreme Court Rule 51(5) requires in relevant part that an applicant for examination for a license to practice as an attorney and counselor at law in Nevada shall not have been denied admission to practice law, or have been disbarred from the practice of law, in any state on the grounds of unfitness of moral character. Accordingly, your 1996 application for admission to the State Bar of Nevada is denied on the grounds that you have been denied admission in another state. Moreover, pursuant to the foregoing rule, the Board of Bar Examiners does not have the authority to conduct an independent investigation with respect to the circumstances surrounding your denial of admission in North Carolina.

Should you have any questions regarding this matter, please fee free to contact Deena Trueblood, Director of Admissions for the State Bar of Nevada, at the number listed below.

Sincerely,
RONALD D. ALLING
Chair, Board of Bar examiners

RDA/np
cc: Janette Bloom, Esq.; Clerk of the Supreme Court of Nevada
Deena Trueblood, Director of admissions

EXHIBIT "C"

STATE BAR OF NEVADA

April 10, 1996
REPLY TO RENO/ LAS VEGAS

David Golia Paladin
P.O. Box 66
225 Horton Highway
Mineola, LI, New York 11501

RE: 1996 Application for Admission to the State Bar of Nevada

Dear Mr. Golia Paladin:

I am in receipt of your letters dated March 18, 1996 and April 5, 1996 with respect to the above referenced matter. In your letter, you contend that you called the State Bar office for Clarification on the application of Supreme Court Rule ("SCR") 5 1, and that based upon a conversation with Sheila Robertson, Assistant Director of Admissions, you submitted the 1996 Application for Admission, together with the appropriate fee. You further contend that you do not believe that you should be penalized for your good faith reliance lance on a critical representation by one of my staff members.

In response, I direct your attention to subsection (i), "Part 9: Representations By Applicant," located on page 7 of 8 of your 1996 Application for Admission. Subsection (i) states I acknowledged that I have completely read and fully understand the contents of Rules 49-75, inclusive, of the Supreme Court of the State of Nevada, relating to admission to practice law in the State of Nevada, and agree to fully and completely comply, at all times, with all aspects thereof." You initialed in the box following subsection (1), signifying that you do agree and represent to the Nevada Supreme Court that

you have read and understand the statement set forth in that subsection.

S CR 5 1(5) clearly states that an applicant for examination for a license to practice as an attorney and counselor at law in this state shall not have been refused admission to practice law, or have been disbarred from the practice of law, in any state or before any court or governmental agency of the United States on the grounds of unfitness of character. According to your application for admission, you were refused admission to practice law in the state of North Carolina on the grounds of unfitness of character. Thus, no ambiguity exists in the interpretation of this rule.

Additionally, Ms. Robertson is well versed in Supreme Court Rules 49-75 inclusive and if given all the facts of your case, I am certain that she would not have represented to you that an independent determination would have been made in your case by the Board of Bar Examiners. I have spoken with Ms. Robertson and she informs me that she remembers speaking with you, however, she was not told that you had been denied admission in North Carolina. Ms. Robertson has been employed at the State Bar of Nevada for five years and as the Assistant Director of Admission for over one year of that time. She responds to similar questions on a daily basis and I am confident that there must have been a miscommunication in this instance and I apolize for any misunderstanding.

Ms. Robertson's representations are not pivotal in this case, however, as a rule book containing Supreme Court Rules 49-75 was contained in the application package sent to you by the State Bar of Nevada. Given the clarity of SCR 51(5) as stated above, and as a practicing attorney in the State of New York, I am sure you realize that a written rule of law supersedes any oral representations that may have been made.

EXHIBIT "D"

Finally, notwithstanding the $25.00 refund of the license fee, the Supreme Court Rules do not provide for any refunds of the application fee. Because I am bound by the Supreme Court Rules, absent a Supreme Court Order, I am not able to refund your application fee.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,

Director Of Admissions DRT/jd

cc: Ron Alling
Janette Bloom

EXHIBIT "D"

In the Matter of the Application to the State Bar of Nevada
Affirmation as to Good Moral Fitness

David Golia-Paladin,

Applicant.

DAVID GOLIA-PALADIN, an attorney duly admitted to the practice of law in the Courts of the State of New York, hereby affirms the following under penalty of perjury:

I make this affirmation in support of my application for admission to the Nevada bar, and to clarify a denial of admission to the North Carolina bar on the grounds of lack of moral fitness. This denial is presently being litigated in the North Carolina courts. The denial alleges it was based on allegations of intentional misrepresentation of material facts on the application concerning three primary things: first, the number of times I took the California bar; second, my answer about residency in a New York civil case in which I was a defendant; and third, failure to update my application regarding the status of a federal case in which I was a plaintiff.

All aspects of the application were reviewed and approved by retained North Carolina counsel before submission.

As will be shown in my explanation below, the bases used to support these

EXHIBIT "E"

allegations are without merit.

I urge and encourage you to consider what is set forth and draw your own conclusions.

In 1978 I passed the New York State bar examination and in the same year was admitted to the New York bar. I was admitted to the United States District Court for the Eastern District of New York the following year. I am, at present, an attorney in good standing in New York and in the Eastern District, and have continued so in an uninterrupted manner from the time of my respective admissions. I have always been in good standing and am currently practicing law in New York.

My practice consists primarily of representing indigent defendants, and I am assigned by the New York State Supreme Court, Appellate Division, First Department, Indigent Defendant's Legal Panel to represent my clients. I am on both the felony trial and appeal panels.

I applied to be admitted to the North Carolina bar in 1985 because I had married, and my wife lived in North Carolina. My admission was denied by their admissions board on the ground that I did not meet their practice requirements and was morally unfit because I did not accurately state the number of times I had taken the California bar. On review in 1990 by the North Carolina Supreme Court, the Court gave little weight to my pro bono publico work, and upheld the denial of admission only on the ground that I did not meet their practice requirement because my income was not high enough.

2

EXHIBIT "E"

I reapplied to be admitted in 1991. It was a year and a half before I was granted an interview. Then some three months later I was again denied admission by the committee on moral fitness grounds.

The thrust of this finding was based on a perception by the North Carolina board that my application was still inaccurate about the California bar, that I made misrepresentations to a New York state court in a civil case in which I was a defendant, and that I was inaccurate about a federal lawsuit in which I was a plaintiff. But, they did give up on the lack of substantial practice issue.

The alleged "inaccuracies" were principally due to the fact that because the North Carolina board chose to delay hearing proceedings by over a year and a half on an application that was then nearly two years old, some items had to be updated by me either just before the hearing or at the hearing itself. And, as reflected in the record, they were.

As to bar exams, I did not maintain old bar records. The North Carolina bar's "executive secretary," Fred Parker, requested I write to supplement my estimates. I did and the information was sent him. As to the federal case, not much had happened except for a venue transfer as explained further below.

The case which seemed most important to the North Carolina examiners was the New York safety code violation case which is set forth as follows:

I have a home in Mineola, New York. It has two apartments which I rent out. There is a third small apartment in the basement of the house, as well as an

3

EXHIBIT "E"

office on the side of the house, which office is used by me. After my marriage I would come to New York to check on my property and to appear in court when I had cases scheduled. This would bring me to New York for varying periods of time each month to attend to court appearances and clients.

For fire safety reasons, the village of Mineola has an ordinance which prohibits any "cellar" from use as an apartment, but does permit such use of a "basement." In New York, a basement has windows high enough out of the ground to give firefighters access.

One day just before Christmas, 1988, a man came to the door claiming he was a "furnace inspector" for the village, that he was conducting Christmas safety inspections of furnaces, and asked to check my furnace. I allowed him in. When I turned around, I found that two other men had followed him in the house and were taking pictures. These men turned out to be private, licensed investigators (who subsequently had their licenses suspended because of this type of misrepresentation on their part) working for the village and looking for illegal below grade apartments. When I realized their deceit I asked them to leave.

I was shocked and felt "violated" in every sense of the word.

I was disgusted and angry with what had happened, and I left Mineola for North Carolina the next day for a previously scheduled holiday break. I was so upset at the time, and so expressed it to my then spouse, as to leave without intending to return.

4
I was subsequently served with a summons and complaint alleging that I live in an illegal apartment in the "cellar" of my property.

From North Carolina I retained an attorney in New York to represent me in the matter. I told him exactly what happened. I was aware of my position as both an attorney and as a litigant, and that the code of ethics must be scrupulously followed. And I so instructed my attorney. I was specifically aware of Disciplinary Rules 3.3 and 4.1 and comments thereunder with regard to it misleading legal argument" and "misrepresentation." Respectively, "A lawyer is not required to

make a disinterested exposition of the law..." and "A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. "

In my answer I truthfully denied what the New York plaintiff complained of. The response was to the complaint as drafted, and was accurate and correct. The apartment was in a "basement," not a "cellar." At the time of service and answer I in fact no longer used the apartment as my "residence." The plaintiff's immediate dropping of the case confirmed the plaintiff agreed with these assertions. I did not vote in New York that year. I had a spouse, domicile and residence in North Carolina.

The entire matter was never calendared nor considered by the New York courts because of the plaintiff's voluntary discontinuance of the suit within weeks of filing, nor has any New York grievance committee nor anyone else ever shown the slightest interest in my part in the matter.

5

Finally however, on subsequent investigation by New York State licensing authorities, and by the Attorney General's office, into the conduct of the investigators, for their part in this matter the investigators for the plaintiff had their investigation licenses suspended by the state.

The above case and facts are the principal source of support for the North Carolina bar's position that I am unfit to practice in their state.

The final primary concern of the examiners related to the New York federal case in which I am a plaintiff. The case involves a lawsuit filed by me against a grievance committee to expunge its issuance of two non disciplinary letters of caution. The first letter of caution was issued without notice, and so admitted at later deposition. When this was first brought to the New York committee's attention, they responded by raising new and unrelated charges that their chief counsel later admitted in deposition would have been dismissed by the committee if I had appealed.

A copy of the original complaint against the grievance committee was provided the North Carolina bar. Between the time the case was filed in the Southern District of New York and the time of the North Carolina interview, nothing had happened except that the U.S. District Court transferred the case to the Eastern District. I set forth the details of the transfer during my testimony. As of this date, the federal judge still has not issued his ruling.

Aside from questioning the lack of evidence to support a finding of anything other than complete disclosure with regard to all the above, there remains an

6

EXHIBIT
"E"

additional question about the fundamental fairness of the North Carolina proceedings. Due process requires that for hearings to be fair they must be conducted in a timely manner before an impartial tribunal.

After the submission of the second application to the North Carolina bar, a "panel" hearing consisting of three board members was held. At the hearing, though the chairman of the panel opened the proceeding by joking about the difference between a "cellar" and a "basement," no questions were asked about my residence or the case by the panel members, However, after the panel had concluded its questioning, the board's "executive secretary," Fred Parker, who was not a panel member began asking questions about the New York case, insinuating that I had lied about my "residence" because in the New York case I denied living in the "cellar," but on my application I listed North Carolina and New York as my residences.

Some time later, the panel denied my application for comity without specifying the reasons, and I requested a de novo hearing which was granted and held in October of 1992 before a full quorum of the board.

This board consisted of the three members of the original panel along with other persons, some of whom had taken part

in proceedings subsequent to the 1985 application. No one recused themselves.

Again, Mr. Parker was present, but instead of his asking questions on the record, the board members asked questions successively after each time it appeared that Mr. Parker consulted with them.

7
EXHIBIT "E"

The matter was opened by the attorney general reading into the record a prior history of the case to a board that was supposed to be sitting de novo.

I was questioned about the sufficiency of my practice, the number of bar exams I had taken, a federal lawsuit I was a plaintiff in, and the New York safety code case in which I had been a defendant.

Prior to the full board de novo hearing I had amended my application to exclude a previously claimed uninterrupted dual residency in New York from the time of the illegal search to a time past the withdrawal of the suit by the village. Here Mr. Parker again interceded in order to direct the board in its questioning while never actually participating on the record. During my testimony I observed him moving around the perimeter of the board table whispering to or handing notes to various board members, which was immediately followed by questions from the respective board members.

It appeared that the board came to the hearing with an agenda in which they sought to justify the earlier denial of comity and the earlier decision signed off on by the panel. The rest of the application seemed of no concern to them.

In fact it seems to be a practice of the board members to sign off on decisions made by others, as the board's decision was signed by a person who was not present at the hearing nor was he a board member at the time of the hearing.

All the problems which arose at the hearing were a result of my attempt to be as honest and literally specific as possible with the various post submission pre hearing requests of the board's 8

EXHIBIT "E"

Executive Secretary, Mr. Parker. I amended the period of my dual residency to be more exact, I followed Mr. Parker's instructions to request that New York and California send my bar history directly to him. And when California sent it to me instead, I sent it straight on to Mr. Parker. And because more than a year and a half had passed from the time I submitted the application, during the hearing I volunteered to update the board on the status of the federal lawsuit I was involved in as a plaintiff.

The board, however, appeared to take this as evidence of an attempt to mislead them, even though it was in response to the minute detail called for by their executive secretary's requests and questions.

I feel that my attempts to keep the examiners informed and up to date on all the information requested created a "catch 22" in which my good faith efforts to meet their requests were used by them to support a perception that I was intentionally not being forthcoming.

The North Carolina bar examiners appeared to take a position that the answers my attorney drew and I endorsed in response to the New York safety code complaint were deceptive, and that as an officer of the court I, in effect, was obligated to interpret the real meaning the complaint was trying to get at, and that I should reply to what was really meant rather than to reply in a literal fashion to what was perhaps an inartfully drawn complaint.

The examiners' position appears to retroactively penalize me for protecting my constitutional right to defend myself.

9

EXHIBIT
"E"
Had any attorney representing a client responded otherwise, he or she would have been subject to a malpractice claim and possible disciplinary action for failing to properly represent his or her client. When an attorney is a defendant in a proceeding, he or she has the same right to due process as anyone else, and

has the right to defend him or herself in the same manner as any other litigant. I believe the New York State Attorney General would agree with this assessment in that the same office that investigated the code violation matter is also defending the grievance committee. It also begs the question that if New York and then California (ex. A) feel there is nothing wrong with an attorney defending him or herself, why does North Carolina singularly insist otherwise?

I remain an attorney in good standing in New York, and I continue to represent those who can least afford and most need legal representation. This finding of the North Carolina bar examiners is now over three years old and will eventually be reviewed by their supreme court. And it is now some five years since the application was originally submitted.

In the interim, I urge you to investigate this matter fully and conclude, as California did on the same facts, the very next month, in February of 1993, (exhibit A) that I am in fact morally fit.

Respectfully submitted,
January 22, 1996
Mineola, New York 11501

DAVID GOLIA-PALADIN, ESQ.

10

In the Matter of the Application to the State Bar of Nevada
Amendment to Affirmation as to Good Moral Fitness

David Golia-Paladin, Applicant.

DAVID GOLIA-PALADIN, an attorney duly admitted to the practice of law in the Courts of the State of New York, hereby affirms the following under penalty of perjury:

On page 8 of my affirmation originally submitted to the State Bar of Nevada I asserted a belief that the person, a Mr. Brinkley, who signed the North Carolina order that I failed to meet their moral fitness standards was not a board member at the time of the hearing. This was based on the fact that to that time his name was absent from all correspondence from the

board, and that Mr. Schoch, the individual who conducted the hearing was listed on their stationary as their Chairman. It has since come to my attention that the official transcript indicates that Mr. Brinkley was in attendance as a member of the board. I have also since received correspondence from Mr. Schoch that indicates he has no idea why his signature would not have been on the board's decision, and that under normal circumstances he would have signed it. Finally, the order Mr. Brinkley signed as Chairman over three months later specifically stated he was not present at the hearing and did not participate in the board's decision. I do not have an answer as to why Mr. Brinkley waslisted as present when he later says he was not, and why Mr. Schoch did not sign the order for a hearing he conducted.

Respectfully submitted,
March 13, 1996
Mineola, New York 11501

DAVID GOLIA-PALADIN, ESQ.

2
EXHIBIT E

THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA OFFICE OF ADMISSIONS

655 FRANKLIN STREET
SAN FRANCISCO,CALIFORNIA 94102 (416) 661-8303
333 SOUTH BEAUDRY, 10th FLOOR -
LOS ANGELES,CALIFORNIA 90017

February 18, 1993

TO: DAVID ERNEST GOLIA-PALADIN
109 MIMOSA DRIVE
CHAPEL HILL, NC 27514

FROM: THE COMMITTEE OF BAR EXAMINERS

SUBJECT: DETERMINATION OF MORAL CHARACTER

APPLICATION FILED: September 28, 1992

DETERMINATION DATE: February 16, 1993

DETERMINATION EXPIRES: February 16, 1995

The processing of your Application for Determination of Moral Character has been completed.

The Committee of Bar Examiners is pleased to advise you that you have been found to possess the good moral character required for certification to practice law in California. This positive determination will remain valid through the date specified. If you pass the Bar Examination and the Multistate Professional Responsibility Examination, your eligibility to practice law will be certified to the Supreme Court of California. If you do not pass the required examinations before your determination expires, you will be required to file an Application for Extension of Determination of Moral Character to prevent your determination from expiring.

If your determination expires, you will be required to file a NEW Application for Determination of Moral Character and pay the fee associated with that application.

Until you are certified to the Supreme Court, you are under an on-going obligation to update your responses to questions on the moral character application whenever there is an addition or change to information previously provided to the Committee.

34CJ/FMLA121493

I
EXHIBIT "F"
Appellate Division of the SupremeCourt of the State of New York Second Judicial Department

I, Martin M. Brownstein, Clerk of tile Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, do hereby certify that DAVID ERNEST GOLIA-PALADIN was duly licensed and admitted to practice no an Attorney and Counselor at Law in all the courts of tilt estate, according to tile lam of tile State and tile court rules and
orders, an tile 15th day ofNOVEMER 1978 has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of attorneys and Counselors at Law on file in my office. has duly registered with the administrative office of the courts, and according to tilt records of this court is in good standing as an attorney and counselor at law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Appellate Division on January 3, 1996

Clerk

EXHIBIT "G"

AO 136
(Rev. 6/82)
CERTIFICATE OF GOOD STANDING

UNITED STATES OF AMERICA
ss.
EASTERN DISTRICT OF NEW YORK

ROBERT C. HEINEMANN,
Clerk of the United States

DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

DO HEREBY CERTIFY That DAVID GOLIA-PALADIN was duly admitted to practice in said Court on FEBRUARY 21 1979 and is in good standing as a member of the bar of said Court.

Dated at UNIONDALE, NEW YORK
ROBERT C. HEINEMANN
Clerk

On DECEMBER 29 1995

By
Deputy Clerk

EXHIBIT "H"

APPENDIX D
Supreme Court of Nevada Admissions Rule 51

Rule 51. Qualifications of applicants for examination. An applicant for examination for a license to practice as an attorney and counselor at law in this state shall:

1. Have attained the age of majority.

2. Be present or available within the State of Nevada, and remain so until examined as required by SCR 65, so as to permit and facilitate the examination, investigation, interviews and hearings necessary to determine the applicant's morals, character, qualifications and fitness to practice law.

3. Have received a degree of bachelor of laws, or an equivalent law degree, from a law school approved by the committee on legal education and admissions to the bar of the American Bar Association, and shall present evidence of the same. Provided, however, an applicant may file a bar application and be examined in advance of having received the foregoing degree if the applicant furnishes with the application a statement from the dean of the applicant's law school stating that the dean reasonably believes the applicant will receive a law degree at the end of (1) the summer quarter or semester of law school during which the examination is given, or (2) the fall quarter or semester commencing immediately following the administration of the Nevada State Bar Examination.

4. Demonstrate that the applicant is of good moral character and is willing and able to abide by the high ethical standards required of attorneys and counselors at law.

5. Not have been refused admission to practice law, or have been disbarred from the practice of law, in any state or before any court or agency of the United States on the ground of unfitness of character.

6. Not be subject to any mental or emotional disorder which would render the applicant unfit to practice law.

7. Not be an abuser of alcohol or prescription drugs, or a user of illegal drugs.

8. Demonstrate financial responsibility.

9. Be in full compliance with any court order, including without limitation, spousal or child support orders.

APPENDIX E

Petitioner's April 5, 1996 Letter to Nevada Bar Admissions Directors

DAVID GOLIA PALADIN
ATTORNEY AT LAW
P.O. Box 66
225 HORTON HIGHWAY
MINEOLA, L.I.NEW YORK 11501
516-742-4699

April 5, 1996

Deena Trueblood, Director of Admissions

State Bar of Nevada

201 Las Vegas Boulevard South, Suite 200
Las Vegas, Nevada 89101

Dear Ms. Trueblood:

This is to follow up on my letter to you of March 18, and to request that I be allowed to withdraw my application and that my fee be returned.

This request is based on the fact that after having read your rules and prior to filling out the application and submitting your fee, I called your office on January 22, 1996 and spoke with Sheila Robertson for clarification on the application of Rule 51. 1 specifically asked her whether the rule precluded any consideration of an application from me where I had been found not to have met the moral fitness standards of another bar. She responded, "Oh no, you should go ahead and apply, they make their own independent determination." I asked, "Are you sure?" She said, "Oh, yes."

Based on her representation, I filled out the lengthy application and submitted it along with the specified application fee. I understand now that there is an absolute preclusion of consideration. Further, I see little merit in engaging in cross country litigation. But I also do not believe I

should be penalized for my good faith reliance on a critical representation of your own staff.

Ms. Trueblood, I must request of you some understanding of my confusion under the circumstances, and I must rely on your own sense of good faith and fairness both in consideration of and in acting on my request.

Again, thank you for your attention to this matter.

Very truly yours

cc: Janette Bloom, Esq.

APPENDIX F
Supreme Court of Nevada Admission Rule 56

Rule 56. Number and disposition of applications; approval by board of bar examiners.

(e) Only the board of bar examiners may recommend denial, with or without prejudice, of an application, pursuant to SCR 64, on the grounds that the applicant has failed to demonstrate good moral character and willingness to abide by high ethical standards, or that the applicant has failed to demonstrate that no mental or emotional disorder renders the applicant unfit to practice law. In the absence of the timely filing of a petition pursuant to the provisions of SCR 64, the court shall refuse to disturb such an adverse recommendation of the board. If the recommendation is to deny admission without prejudice, the board may impose conditions which the applicant must fulfill before the applicant will be permitted to file a subsequent application for admission to practice law. Further, the board shall recommend a period of time, not to exceed 5 years, before the applicant may reapply.

(f) An applicant whose application has been rejected on grounds other than those stated in SCR 64 may, within 30 days from the date of notification, file a verified petition for relief with the Supreme Court, which shall be accompanied by proof of service of a copy thereof upon the admissions director of the state bar and the chairman of the board of bar examiners. Such petition shall contain a statement of facts accompanied by copies of all relevant documents, a statement of each ground upon which relief is alleged to be warranted, and legal points and authorities, setting forth the legal basis for each ground for relief alleged. If the court is of the opinion that relief should not be granted, it may deny the petition otherwise the court may enter an order fixing time within which an answer may be filed by the board of bar examiners. Should the court determine that the petitioner is entitled to relief it may direct the board of bar examiners to process the application in accordance with SCR 57 to SCR 75.

APPENDIX G
Supreme Court of Nevada Admission Rule 64

Rule 64. Recommendation to supreme court for denial of admission for failure to meet requirements of Rule 51.

1. Where the board of bar examiners recommends to the supreme court that an applicant be denied admission with or without prejudice to the bar for failure to meet the requirements of SCR 51(2~ (4) (5), (6), (7), (8) or (9), the grounds for the recommendation and the conditions, if any, to be imposed on denials without prejudice, shall be stated in writing and shall be promptly filed with the clerk of the supreme court, together with proof of service of the recommendation upon the applicant.

2. Any applicant so notified may, within a period of 30 days from service of the notice, file a verified petition for review with the supreme court, which shall be accompanied by proof of service of a copy thereof upon the admissions director and chairman of the board of bar examiners. Service by mail is complete upon mailing. Such petition shall contain any relevant documentation necessary for the court's understanding of the matter, a statement of facts supported by adequate citation to any record, and legal points and authorities setting forth the legal basis for each ground upon which the board's recommendation is alleged to be erroneous. If the court is of the opinion that the board's recommendation should not be disturbed, it may deny the petition. Otherwise , the court may enter an order fixing time within which an answer may be filed by the board of bar examiners to take such action as is deemed warranted under the circumstances.

3. In any proceeding before the board of bar examiners, or before the supreme court, the applicant shall have the burden of providing that the applicant meets the qualifications required for admission to practice in this state. Should an applicant fail to meet this burden of proof, the court shall refuse to disturb the adverse recommendation of the board of bar examiners.

APPENDIX H

Supreme court of Nevada October 14, 1996 Form Notification of Negative Recommendation and of Right and Time Within Which to Appeal – none of which was ever sent to petitioner

SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
JANETTE M. BLOOM, CLERK
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710
October 14, 1996

Dear

I am sorry I must notify you that the Board of Bar Examiners has recommended that you be denied admission to the State Bar of Nevada based upon your failure to pass the bar examination.

The Supreme Court of Nevada has this day entered an order continuing the final resolution of your application for a period of 30 days in order to provide you with time to petition this court for review of the Board of Bar Examiners' recommendation, if you so desire. I direct your attention to Supreme Court Rule 70 concerning the procedure for Supreme Court review.

The Board of Bar Examiners will forward you a report of your examination scores and the formulas applied in calculating the scores.

If you wish to obtain a copy of your examination booklets, you must submit a written request together with a check in the amount of $5.00 to the Clerk of the Supreme Court. You may also obtain a copy of the essay questions from this office for an additional $5.00.

Sincerely,
Janette M. Bloom
Clerk of Court

APPENDIX I
Petitioner's January 18, 1997 Request for Reconsideration

SUPREME COURT OF THE STATE OF NEVADA .
IN THE MATTER OF DAVID GOLIA-PALADIN, Applicant for the July, 1996 Bar Examination,

-against- Affirmation

BOARD OF BAR EXAMINERS, STATE BAR OF NEVADA, Ronald Alling, Chairman; Deena Trueblood, Admissions Director.

DAVID GOLIA PALADIN, an attorney in good standing and duly licensed to practice law in the Courts of the State of New York, hereby affirms under penalty of perjury the following:

In On October 14, 1996 the Clerk of the Supreme Court of Nevada wrote notices to unsuccessful bar exam candidates providing the following notice: The Board of Bar Examiners has **recommended** [emphasis added] that you be denied admission to the State Bar of Nevada ... The Supreme Court of Nevada has this day entered an order continuing the final resolution of your application for a period of 30 days in order to provide you with time to petition this court for review of the Board of Bar Examiner's recommendation, if you so desire." (Exhibit A)

2. On December 21, 1996, Petitioner left New York for medical treatment in North Carolina
through the end of January, 1997.

3. On December 27, 1996 Petitioner wrote Chief Justice Steffen from North Carolina
inquiring as to the status of the above case (Exhibit B).

4. On January 9, 1997 Petitioner received the Order of the Supreme Court of Nevada in the above matter denying Petitioner's request for review. The Order was based solely on allegations of Petitioner's lack of explanation or justification for failure to comply with the 30 day filing period applicable

to Supreme Court of Nevada Rule 64.1 5. Petitioner hereby asks for relief pursuant to Rule 60 of the Nevada Rules of Civil Procedure and pursuant to the inherent powers of the Supreme Court of Nevada governing admission of attorneys to practice.

6. The reasons for the relief requested are as follows:

a. Mr. Alling's letter of rejection of March 12, 1996 failed to comply with Nevada Supreme Court Rule 64 by failure to "recommend" rejection to the Court.

b. Mr. Alling failed to follow his own rules that afford applicants in Petitioner's position to have their applications reviewed by the Character and Fitness Committee.

c. Mr. Alling's action was in violation of United States Constitution Amendment 14, Due Process, Equal Protection, and Privileges and Immunities clauses in that he failed to act in a fundamentally fair manner, failed to provide for notice and an opportunity to respond, and failed to treat this Petitioner in a manner similar to all other applicants in that 1) Petitioner was not subject to the same scrutiny and standards prior to rejection as recent law school graduates, and 2) after "rejection" petitioner was not provided with the same notice and opportunity to be heard as all others who were rejected.

d. Mr. Alling apparently failed to follow the Nevada Bar's own rules and procedures, and he failed to follow the Supreme Court of Nevada's rules and policies. Mr. Alling's actions and the Bar's defensive reaction shocked this Petitioner. It was most confusing and misleading to this Petitioner that an officer of the Nevada Bar and Supreme Court would have the authority to issue an outright rejection of admission rather than to "recommend" to the Nevada Supreme Court rejection. Further, Janette Bloom, the Clerk of the Supreme Court of Nevada did not respond to Mr. Alling's letter with any response or notice to Petitioner as she did with all other candidates "recommended" for denial of admission.

e. Accordingly, this Petitioner did not know what to do, in that Mr. Alling, a person of some apparent authority with the Nevada Bar, was holding himself out as having the

apparent power to summarily reject an applicant in a manner inconsistent with his own rules and without opportunity for review. In fact, Petitioner traveled in person to the Nevada Supreme Court three months later, where on June 17, 1996 Petitioner visited with Andrew Horstmanshoff of the Court's staff to find out what if anything could be done. Mr. Horstmanshoff was polite and professional to Petitioner, and informative. He listened to what was said, acknowledged the conflicting rules, and suggested Petitioner file the instant petition.

f Not once was Petitioner informed by Mr. Ailing or Ms. Trueblood or Ms. Bloom that their findings were only a "recommendation" and that Petitioner had 30 days to seek relief from the Supreme Court of Nevada as is done with all other unsuccessful] bar candidates (Exhibit A). This lack of the same notice from the Clerk of the instant Court to whom Petitioner is presently appealing appears to be a clear violation of Petitioner's Fourteenth Amendment fight to the Equal Protection of the law.

g. Allowing Mr. Alling's decision to stand will defects result in legitimizing a serious erosion of the constitutional rights and civil rights of attorney's applying to the Nevada Bar.

h. The case on which Mr. Alling's decision rests, In Re Golia-Paladin, 472 S.E.2d 878 (N.C. 1996) is under review by writ of certiorari to the United States Supreme Court. The principal issue is whether attorneys are entitled to the same rights under the Fourteenth Amendment to the Constitution of the United States as all other citizens.

i. One of the most recent in a string of United States Supreme Court decisions on bar admissions and attorney discipline in fact is Gentile v. State Bar of Nevada , 111 SCt 2720 (1991). Justice Kennedy's statement at page 2722 went fight to the heart of the matter in the instant case where in referring to and striking down "Nevada Supreme Court Rule 177" he stated: "Given the Rule's grammatical structure and the absence of a clarifying interpretation by the State court, the Rule fails to provide fair notice to those to whom it is directed and is so imprecise that discriminatory enforcement is a real possibility."

j. Petitioner submits to this Honorable Court that if Mr. Alling's "rejection" is allowed to stand, Petitioner will have been subject to the same type of "discriminatory enforcement" found in Gentile , Avoiding a ruling on the substance of the petition because the appeal fell outside the 30 day limit results in a miscarriage of justice. This is particularly true where Petitioner acted in total good faith, where Mr. Ailing acted in apparent summary fashion, where the State Bar's published policies conflict with the Rules of the Supreme Court of Nevada, and where Ms. Bloom's lack of customary notice all Combined to cause Petitioner's 66 day delay in filing for relief

k. Finally, allowing Mr. Alling's decision to stand gives unwarranted credence to form over substance. This seems ironic given that Petitioner's initial petition rests principally on lack of form on the part of Nevada. Further, this compounds the claimed miscarriage of justice from another state. An attorney, whose civil rights have been violated by another state (here, as claimed, North Carolina) should not have a diminished right in Nevada to contest the constitutionality of that ruling. Every state has a fight to its own standards of right and wrong within the framework of the United States Constitution. Just as North Carolina cannot tell Nevadans to criminalize gaming and prostitution, neither should North Carolina unquestioningly be allowed to impose their unique brand of character interpretation on the rest of the country. The inalienability of civil rights guaranteed by the United States Constitution is one of the fundamental rights that holds this country together. It is, in fact, one of the fundamental fights that attorneys champion. The notion that personal bias and political influence should not effect fundamental rights in any official proceedings seems to be a sadly decreasing principle as we approach the second millennium. Summary rejection of a claimed violation of such rights, especially in attorney admission proceedings conducted by those who are supposed to be the guardians of such civil rights, should be against the public policy of all states, including Nevada.

CONCLUSIONS:

1. There appears to be a conflict regarding moral fitness policies between the Supreme Court of Nevada and the State Bar of Nevada.

2. The Nevada Bar Examiners have been paid a fee to conduct a moral fitness examination, and through this process they should be able to verify all that has been set forth in these moving papers. Otherwise, Petitioner will have been subjected to "summary justice" in violation of Petitioner's constitutional rights.

3. This matter is easily capable of repetition.

4. Petitioner comes to this Honorable Court in all candor to seek justice for a reasonable request to consider the merits of Petitioner's case.

5. Petitioner's failure to "explain or justify the untimely filing" of petition was inadvertent and due to what Petitioner thought was apparent. Petitioner thought and continues to think that any untimeliness or lack of timely filing was due to the nature of the underlying issues in question and equally due to conflicting published rules and to the failure of Mr. Alling, Ms. Trueblood, and Ms. Bloom to treat Petitioner in the same manner as they treat all other applicants. If the rules had not been so conflicting, if Mr. Alling had provided Petitioner with a Character and Fitness review pursuant to his own rules, and if Petitioner had been notified by Ms. Bloom and generally treated the same by all of the above as they treat everyone else, this matter would otherwise have been filed to the satisfaction of this Honorable Court and decided on its merits.

RELIEF REQUESTED:

1. Reconsideration of docket 28734 on its merits, with an option to withdraw without prejudice and with a full refund, or to be properly reviewed by the Character and Fitness Committee and to sit for the July, 1997 Nevada Bar Examination.

2. Costs, and any other relief this Honorable Court deems just and appropriate.

WHEREFORE, with all due respect it is requested that the within motion for immediate relief be granted in all respects.

Dated: Chapel Hill, North Carolina

January 18, 1997

DAVID GOLIA PALADIN
Attorney at Law
P.O. Box 66
Mineola,NewYork 11501

SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
JANETTE M. BLOOM. CLERK
CAPITOL COMPLEX
CARSON CITY, 89710

October 14, 1996

Dear

I am sorry I must notify you that the Board of Bar Examiners has recommended that you be denied admission to the State Bar of Nevada based upon your failure to pass the bar examination.

-The Supreme Court of Nevada has this day entered an order continuing the final resolution of your application for a period of 30 days in order to provide you with time to petition this court for review of the Board of Bar Examiners' recommendation, if you so desire. I direct your attention to Supreme Court Rule 70 concerning the procedure for Supreme Court review.

The Board of Bar Examiners will forward you a report of your examination scores and the formulas applied in calculating the scores.

If you wish to obtain a copy of your examination booklets, you must submit a written request together with a check in the amount of $5.00 to the Clerk of the Supreme Court. You may also obtain a copy of the essay questions from this office for an additional $5.00.

Sincerely,

Janette M. Bloom
Clerk of Court
JMB: SP

EXHIBIT "A"

December 27, 1996
Hon. Thomas Steffen, Chief Justice
Supreme Court of Nevada
201 South Carson Street
Carson City, Nevada 89701

Dear Chief Justice Steffen:

I am writing to you in your capacity as the chief administrative officer of the Supreme Court of Nevada, and in your capacity as the chief administrative officer promulgating the rules of admission to the State Bar of Nevada.

I recently received the enclosed check that arrived unaccompanied by a letter of explanation. Over six months ago, a motion for expedited review was filed with your court as case # 28734. It concerned the denial of my application to take the 1996 Nevada Bar Exam and any other relief the Court deemed appropriate. Your Court seems never to have responded to this motion. I have heard nothing from your Court or from the Nevada Bar in this regard. If the Court regarded the matter as moot, I believe I am still entitled to a response. And in any event, I believe the matter is clearly not moot for three reasons: 1) I paid $575.00 to apply to your bar and to be given a review by your Character and Fitness Committee, but was offered the enclosed without explanation; 2) I was not given a review by Nevada's Character and Fitness Committee pursuant to published rules, but rather was issued a summary dismissal by Mr. Alling; and 3) The matter is capable of repetition.

It is a great mystery to me why I have yet to receive any answer to my queries or why I have not apparently been treated according to your rules. Mr. Chief Justice, I look forward to a resolution of this matter, and much appreciate your looking into it and seeing that the appropriate parties respond.

Very truly yours,,
David Golia Paladin, Esq.
P.O. Box 66
Mineola, New York 11501
cc: Andrew Horstmanshoff

APPENDIX J

Petitioner's December 2, 1997 Letter to Nevada Bar Admissions Director

DAVID PALADIN
ATTORNEY AT LAW
POST OFFICE Box 66
225 HORTON HIGHWAY
MINEOLA, NY 11501-0066
TELEPHONE: 516-742-4699

December 2, 1997

Deena Trueblood, Admissions Director, State Bar of Nevada
201 Las Vegas Boulevard South, Suite 200
Las Vegas, Nevada 8 9 101

Dear Ms. Trueblood:

By now you have undoubtedly received both my documents from last week as well as the decision from your Supreme Court which I have just received forwarded from New York. It would appear that your Court has said that I can ask the Nevada State Bar to reconsider my application without prejudice and appeal any future denial at that time. Accordingly, I request very specific answers from you to each of the following questions:

1. If I ask for you to reconsider my application, will I be given a character review-a review that the papers your office originally sent to me seemed to state outright I am in fact entitled to?

2. Concerning such a character review-are such rules still in force, will I be entitled to Due Process notice and an opportunity to be heard, and will I be entitled to the same treatment, rights and privileges to which any other candidate is entitled?

3. Will I in any way be subject to summary dismissal by Mr. Ailing or any other bar authority on the grounds used previously?

4. Since I previously paid for a character review and was denied it, and if I am now entitled to a character review, it would appear that I am entitled to a statement from you that in light of the circumstances further fees are now being waived?

5. Under the unique circumstances of this case, will you agree that the current application on file simply be deemed a continuing application and updated rather than filing a whole new set of the same papers?

Ms. Trueblood, I would much appreciate your expeditious response and effort to procure answers to the above questions before I leave Fairbanks for Christmas.

Very truly yours,

David Golia-Paladin
P.O. Box 83466
Fairbanks, Alaska 99708

APPENDIX K
Nevada Bar Chairman's March 26, 1996 Letter

STATE BAR OF NEVADA

REPLY TO RENO/ LAS VEGAS

March 26, 1996

DAVID GOLIA PALADIN
P.O. Box 66
Mineola, LI, NY 11501

Dear Mr. Paladin:

This will acknowledge receipt of your letter of March 18, 1996, and copies of your letter of the same date to Deena Trueblood, Director of Admissions, and to Janette Bloom, Clerk of the Supreme Court of Nevada. Despite the statement in your letter to the contrary, I am unaware that an attorney in New York could be disbarred for a gambling conviction, nor am I aware, nor for that matter do I care whether, California has or has not accepted North Carolina's perspective.

Rather than my considering supporting a proposal to the Nevada Supreme Court to revise its Rule 51, I would suggest you considering petitioning the court should you feel you are an aggrieved party.

Sincerely,

BOARD OF BAR EXAMINERS
RONALD D. ALLING, Chair

RDA/np
cc: Janette Bloom, Esq.
Deena Trueblood

APPENDIX L
Petitioner's November 25, 1997 Submission to Nevada Bar

SUPREME COURT OF THE STATE OF NEVADA
IN THE MATTER OF DAVID GOLIA-PALADIN, Applicant for the July. 1996 Bar Examination,

Supplemental Exhibit
Submission Affirmation
Docket 928734
-Against-

BOARD OF BAR EXAMINERS STATE BAR OF NEVADA,
Ronald Ailing, Chairman, Deena Trueblood, Admissions Director.

DAVID GOLIA PALADIN. an attorney in good standing and dulv licensed to practice law in the Courts of the State of New York, herebv affirms under penalty of perjury the following:

1. On August 25 1997 Petitioner mailed a Supplemental Exhibit to the Clerk's Office of the Supreme Court of Nevada for attachment to the above case. As the matter is still pending, an additional supplemental exhibit is now being submitted with four exhibits directly pertaining thereto, one of which has onlv recently been written in anticipation of a reapplication to North Carolina, and bears directly on this case

2 Enclosed please find the following: a) A copy of the letter from the North Carolina Bar requesting among other things that Petitioner write the California Bar for exam date information, b) A copy of Petitioner's letter to California and their hand written response, a copy of which was submitted to North Carolina for incorporation into petitioner's North Carolina application-, c) A copy of a letter from petitioner's North Carolina attorney admitting against his interest the manner In which Petitioner's Due Process rights had been violated by the actions of the North Carolina Bar Examiners, and de facto admitting his own failure to provide his client with de minimis basic lawyering, d) A copy of a recent letter from Petitioner's counsel in New York characterizing his representation of Petitioner in the New York zoning case on which the North Carolina Bar Examiner's case against

Petitioner principally rested This letter is in complete contradiction with the North Carolina Bar Examiner's unsupported conclusions. These submissions are in complete accord with and consistent with the submissions to this Honorable Nevada Court by Petitioner dated August 25, 1997, all of which information contained therein was either supplied and apparently ignored or could have easily been supplied with meaningful notice and an opportunity to be heard.

3. It remains Petitioner's position that the North Carolina decision was a product of bias, and was rendered in complete disregard to Petitioner's United States Constitution Amendment 14 Due Process and Equal Protection rights. Violation of these rights was most likely not an "accident." Upholding the decision of the North Carolina authorities is inappropriate, raising not only constitutional questions but also raising questions about anyone who repeats a bar exam, and indeed, it can as easily be seen raising questions about North Carolina lawyers or any other professionals from any other state who come to Nevada and engage in activity otherwise illegal in their own states. The logic underpinning the North Carolina decision appears to be no more than a convenient void. Finally to use the term -moral unfitness" to characterize such allegations is an unprecedented abuse and in itself misleading. As stated in earlier papers filed with this Honorable Court any continued validation of the North Carolina decision defies logic.

4. Finally, it is Petitioner's position that the Nevada Bar Examiners have failed to take action to stop the compounding of the series of wrongs resulting from the actions of North Carolina officials. It should be borne in mind that the presence of "smoke" does not necessarily mean the presence of "fire." It is this Petitioner's belief that Nevada officials have an obligation to determine whether or not the smoke is real or just a "smoke screen," and that to date, Nevada Bar officials and the Clerk of Court have taken actions or failed to take actions in this matter in a manner that is consistent with. their own publications and policies and consistent with Due Process and Equal Protection principles set forth in both the Nevada and United States Constitutions.

WHEREFORE, with all due respect it is requested that this AFFIRMATION and the EXHIBITS attached be duly

considered and that the previously filed motion for immediate relief in this matter be timely granted in all respects.

Dated-Fairbanks, Alaska
November 25, 1997
DAVID GOLIA PALADIN
Attorney at Law
P.O. Box 66
Mineola, New York 11501

LAW OFFICES
LOFLIN & LOFLIN
123 ORANGE STREET
DURHAM, NORTH CAROLINA 27702
THOMAS F LOFLIN III August 1, 1996
CORRESPONDENCE
P.O. BOX 1315
David Golia-Paladin, Esquire
P.O. Box 66
Mineola, L.I., New York 11501

Dear David:

We received the enclosed opinion of the Supreme Court of North Carolina in your appeal today.

As you can see, regretfully the Court ruled against you on every point.

As you no doubt know the Rules of the United States Supreme Court would permit you to seek review by way of a petition for writ of certiorari an any federal question, provided that you file same within 90 days of the date of the opinion--that is, within 90 days of July 31, 1996. By my counting, the 90th day is October 29, 1996.

The only federal issue I see in your case is whether giving you "notice" that you at the de novo hearing could be asked about any of your answers to the questions on your application is specific notice of what you are "charged" with so as to meet the 14th Amendment's procedural due process requirement. I do not see how such is specific notice: A person may as well be told he is charged with perjury based upon his answers to a number of questions without the charging authority's telling him which answers are allegedly false and in what way.

Please advise me as soon as possible if you want to seek cert. to the U.S. Supreme Court.

Yours very truly,
Thomas F. Loflin III
TFL:jl

EXHIBIT C

RAMO NASHAK &
BROWN

75-19 MYRTLE AVENUE
GLENDALE, NEW YORK 11385

November 10, 1997

TO WHOM IT MAY CONCERN:

RE: Galante v. Paladin #259/88

I represented David Golia Paladin in the above matter in which the Village of Mineola conducted an illegal search of his premises and, subsequently, claimed that he maintained an illegal "cellar" apartment therein. Concerning the defense used, I suggested three primary defenses. (1) That the search was illegal (2) That the premises in question was a legal "basement", as opposed to a "cellar", as described in every paragraph of plaintiffs complaint; and (3) That because plaintiffs action was for the extreme remedy of an injunction to bar use of the premises in question as a "residence", I felt the most appropriate way to emphasize that such extraordinary relief was not warranted was to point out the simple but true fact that at the time of the answer my client was in fact residing with his spouse 500 miles away in another state.

These were my recommendations to my client, which he followed. This advice and its acceptance were unquestionably within the bounds of the law and within this state's bar code of ethics. The validity of these positions was indeed borne out when, ultimately, the Village itself agreed with this defense and within weeks formally withdrew its complaint both before the court and without objection of the court.

Very truly yours,

EXHIBIT D